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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/684,403	10/04/2000	Tom Van Horn	MCTA-002/03US	2392

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EXAMINER

THOMPSON JR, FOREST

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/684,403

Applicant(s)

VAN HORN ET AL.

Examiner

Forest Thompson Jr.

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 43-77 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 43-77 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action (See Paper #6). The text of those sections of Title 35, U.S. Code not otherwise provided in a prior Office action will be included in this action where appropriate.
2. This action is responsive to amendment A filed on 01/29/2004 (see Paper #8). Applicant cancelled claims 1-42, and added new claims 43-77. Claims 43-77 are pending.
3. Claims 43-77 have been examined.

Claim Rejections - 35 USC § 103

4. Claims 43-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pallakoff (U.S. Patent No. 6,269,343), and further in view of Deaton et al. (U.S. Patent No. 6,516,302).
5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

Art Unit: 3625

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

43, 51, 59, 66, 73, 74, 75, 77. Pallakoff teaches:

- providing an on-line group-buying sale for a featured item (col. 2 line 52 – col. 3 line 17);
- specifying for the sale a price curve defined by prices of the featured item with respect to quantities of the featured item (fig. 2 [23, 24, 25, 26, 27]), which encompasses the display of a price representing the increasing value of the aggregated sales of the featured product sales. Pallakoff does not specifically disclose the display of a value curve; however, Pallakoff does disclose displaying demand thresholds and associated prices (fig. 2 [24]), aggregate demand so far (fig. 2 [25]), and status message (fig. 2 [27]). These disclosures encompass the functionality for displaying a value curve for the featured product or service. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the invention of Pallakoff to explicitly disclosing a value curve, as disclosed through the functionality of Pallakoff, for the motivation of carrying out an on-line group-buying sale for a featured product or service.
- receiving buyer offers in the on-line group-buying sale of the featured item (fig. 6 [62b, 64, 65, 66, 67]);

Art Unit: 3625

- transmitting the buyer offers to the e-commerce data processing system (fig. 6 [67b, 68]); and
- determine the price of the item in the on-line group-buying sale responsive to buyer offers and the price curve (fig. 6 [68]; col. 8 lines 28-32);

Pallakoff does not explicitly teach providing an on-line group-buying sale for an incentive item wherein the incentive item is provided to a buyer if the buyer buys the featured item; specifying for the sale a value curve defined by values of the incentive item with respect to quantities of the featured item, wherein the value of the incentive item increases as more buyers make offers in the on-line group-buying sale; determining the non-price value of the incentive item responsive to the buyer offers and the value curve. However, Deaton teaches:

- providing an on-line sale for an incentive item wherein the incentive item is provided to a buyer if the buyer buys the featured item (Abstract);
- value of the incentive item increases as the buyer makes additional purchases in the on-line sale (Abstract); and
- determining the non-price value of the incentive item responsive to the buyer offers and the accumulated price exceeding a predetermined threshold (Abstract).

The teaching of Deaton is for one buyer and a quantity of items. However, it would have been obvious to one skilled in the art at the time the invention was made to combine the purchases of more than one buyer to provide increased benefits to the buyers, as disclosed in Pallakoff. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the teaching of Pallakoff to

Art Unit: 3625

explicitly provide an on-line group-buying sale for an incentive item wherein the incentive item is provided to a buyer if the buyer buys the featured item; specify for the sale a value curve defined by values of the incentive item with respect to quantities of the featured item, wherein the value of the incentive item increases as more buyers make offers in the on-line group-buying sale; and determine the non-price value of the incentive item responsive to the buyer offers and the value curve, as taught by Deaton, for the motivation of carrying out an on-line group-buying sale of a featured item and providing customer satisfaction in the sale.

Neither Pallakoff nor Deaton explicitly teach specifying for the sale a value curve defined by values of the incentive item with respect to quantities of the featured item. However, Deaton does teach functionality that provides the data necessary for a value curve defined by values of the incentive item with respect to quantities of the featured item (see above). It would have been obvious to one skilled in the art at the time the invention was made to present the incentive item values in a manner to be effective to portray the desired effect, including as a graph. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the invention of Pallakoff to explicitly specify for the sale a value curve defined by values of the incentive item with respect to quantities of the featured item, as taught by Deaton, for the motivation of carrying out an on-line group-buying sale of a featured item and providing customer satisfaction in the sale.

Art Unit: 3625

44, 52, 60, 67, 76. Pallakoff teaches the price of the item stays constant as the quantity of buyer offers increases (col. 11 lines 38-42).

45, 53. Neither Pallakoff nor Deaton explicitly teach the non-price attribute of the item comprises an interest rate. However, Deaton does teach *A marginal discount associated with each item processed is generated. This marginal discount is generated in response to a signal that indicates the accumulated price exceeds a predetermined threshold. Unapplied marginal discounts are accumulated for application to the customer order. A discount is applied to the customer order in response to a signal that is generated that indicates the accumulated discounts exceeds a predetermined minimum* (Abstract). This discount encompasses any cost that may be attributed to the buyers' orders, including an interest rate. Therefore, it would have been obvious to one skilled in the art to modify the teaching of Pallakoff to explicitly teach the non-price attribute of the item comprises an interest rate, as taught by Deaton, for the motivation of carrying out an on-line group-buying sale of the item and to influence the potential buyers.

46, 54. Pallakoff does not explicitly teach the item comprises a security interest. However, Pallakoff teaches allowing sellers to communicate conditional offers to potential buyers that encompass the aggregate amount of goods or services that buyers collectively agree to purchase by a given time and date (Abstract), which encompasses the sale or purchase of a security interest.

47, 55. (New) The system of claim 43 wherein the non-price attribute of the item comprises benefits associated with the item.

48, 56, 63, 70. Pallakoff does not explicitly teach the sale of the item is further associated with an ignore curve defined by prices of the item with respect to quantities of the item; nor wherein the buyer data processing system is further configured to exclude a buyer offer from the on-line group buying sale responsive to the ignore curve. However, Pallakoff does teach:

- Another embodiment of the present invention allows sellers to set both a minimum number of **buyers** as well as a minimum volume of goods or services sold (col. 11 lines 25-27), which encompasses applicant's claimed feature of the sale of the item is further associated with an ignore curve defined by prices of the item with respect to quantities of the item; and
- In this example, the Demand Thresholds are 2, 6, and 21. The lowest Demand Threshold is 2, meaning that the offer will be cancelled unless at least two units are sold (col. 3 lines 50-52), which encompasses the buyer data processing system is further configured to exclude a buyer offer from the on-line group buying sale responsive to the ignore curve.

Therefore, the claim is rejected.

49, 57, 64, 71. Pallakoff does not explicitly teach the buyer offer comprises an offer to purchase the item at a specific price and a specific value of the non-price attribute of the item. However, Pallakoff teaches the buyer offer comprises an offer to purchase the item at a specific price (col. 11 lines 43-52). Deaton teaches *A method for customer*

Art Unit: 3625

promotion includes sequentially receiving signals indicative of respective bar codes of a plurality of items in a customer order. The price of each item is accumulated. A marginal discount associated with each item processed is generated. This marginal discount is generated in response to a signal that indicates the accumulated price exceeds a predetermined threshold. Unapplied marginal discounts are accumulated for application to the customer order. A discount is applied to the customer order in response to a signal that is generated that indicates the accumulated discounts exceed a predetermined minimum. (Abstract) Deaton teaches a single buyer buying items which encompasses applicant's claimed feature of an offer to purchase the item at a specific value of the non-price attribute of the item. Pallakoff teaches a plurality of buyers buying an aggregated amount of a single item. It would have been obvious to one skilled in the art to modify the teaching of Pallakoff to explicitly teach the buyer offer comprises an offer to purchase the item at a specific price and a specific value of the non-price attribute of the item, as taught by Deaton, for the motivation of carrying out an on-line group-buying sale of a featured item and influence potential buyers.

50, 58, 65, 72. Neither Pallakoff nor Deaton explicitly teach the sale of the item is further associated with an ignore curve defined by values of the non-price attribute of the item and quantities of the items; nor the buyer data processing system is further configured to exclude a buyer offer from the on-line group buying sale responsive to the ignore curve. However, Pallakoff does teach functionality that encompasses an ignore curve and quantities of the item, and to exclude a buyer offer from the on-line group-buying sale responsive to the functionality of the ignore curve. Deaton teaches the non-

Art Unit: 3625

price attribute of the item. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the teaching of Pallakoff to explicitly teach the sale of the item is further associated with an ignore curve defined by values of the non-price attribute of the item and quantities of the items, and the buyer data processing system is further configured to exclude a buyer offer from the on-line group buying sale responsive to the ignore curve, as taught by the combination of Pallakoff and Deaton, for the motivation of carrying out an on-line group-buying sale of a featured item and influence potential buyers.

61, 68. Pallakoff does not teach the incentive item is unrelated to the featured item. However, Deaton does teach the incentive item is unrelated to the featured item (col. 66 line 36 – col. 68 line 42). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the teaching of Pallakoff to explicitly teach the incentive item is unrelated to the featured item, as taught by Deaton, for the motivation of carrying out an on-line group-buying sale of a featured item and influence potential buyers.

62, 69. Pallakoff does not teach the value of the incentive item increases by comprising additional goods or services to the incentive item. However, Deaton does teach the value of the incentive item increases by comprising additional goods or services to the incentive item (col. 105 lines 8-19). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the teaching of Pallakoff to explicitly teach the value of the incentive item increases by comprising additional goods or services to the incentive item, as taught by Deaton, for

the motivation of carrying out an on-line group-buying sale of a featured item and influence potential buyers.

Response to Arguments

6. Applicant's arguments with respect to claims 43-77 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 3625

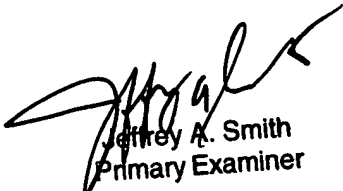
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Forest Thompson Jr. whose telephone number is (703) 306-5449. The examiner can normally be reached on 6:30 AM-3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FT

04/26/2004


Jeffrey A. Smith
Primary Examiner